



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**ADVANCE COPY BY FACSIMILE**

Mr. James Bopp, Jr., Esq.  
Mr. Barry A. Bostrom, Esq.  
Bopp, Coleson & Bostrom  
The National Building  
One South Sixth Street  
Terre Haute, Indiana 47807-3510

**JAN 27 2010**

RE: MUR 6133  
National Right to Life PAC  
and Carol Tobias, in her  
official capacity as treasurer

Dear Messrs. Bopp and Bostrom:

On January 22, 2010, the Federal Election Commission accepted the signed conciliation agreement and civil penalty submitted on behalf of your clients, National Right to Life Political Action Committee and Carol Tobias, in her official capacity as treasurer, in settlement of the violation of 2 U.S.C. § 434(g), a provision of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C. § 434(g)(a)(4)(B).

Enclosed you will find a copy of the fully executed conciliation agreement for your files. If you have any questions, please contact me at (202) 694-1372.

Sincerely,

A handwritten signature in black ink, appearing to read "Roy Q. Lockett".

Roy Q. Lockett  
Attorney

Enclosure  
Conciliation Agreement

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**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of	)	
	)	
National Right to Life Political Action Committee and	)	MUR 6133
Carol Tobias, in her official capacity as treasurer	)	

**CONCILIATION AGREEMENT**

This matter was initiated by the Federal Election Commission ("Commission") pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found probable cause to believe the National Right to Life Political Action Committee and Carol Tobias, in her official capacity as treasurer ("Respondents"), violated 2 U.S.C. § 434(g).

NOW THEREFORE, the Commission and Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding.

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. National Right to Life Political Action Committee ("Committee") is a political committee within the meaning of 2 U.S.C. § 431(4), and is not the authorized committee of any candidate.

2. Respondent Tobias is the Committee's treasurer. She was not the treasurer during the 2003-04 election cycle.

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3. An independent expenditure is an expenditure for a communication that expressly advocates the election or defeat of a clearly identified candidate, and is not coordinated with a candidate, candidate's committee, party committee or their agents. 2 U.S.C. § 431(17). An independent expenditure shall be reported on Schedule E when that expenditure, added to other independent expenditures made to the same payee during the same calendar year, exceeds \$200. 11 C.F.R. §§ 104.3 (b)(3)(vii) and 104.4(a).

4. Any independent expenditures aggregating \$1,000 or more, with respect to any given election, and made after the 20<sup>th</sup> day but more than 24 hours before the day of an election must be reported, and the report must be received by the Commission within 24 hours after the expenditure is made. 2 U.S.C. § 434(g)(1)(A). A 24-Hour Notice is required for each additional \$1,000 that aggregates, and that notice must be filed on a Schedule E. 2 U.S.C. § 434(g)(1)(B).

5. Any independent expenditure aggregating \$10,000 or more with respect to any given election, at any time during a calendar year, up to and including the 20<sup>th</sup> day before an election, must disclose this activity within 48 hours each time that the expenditures aggregate \$10,000 or more. 2 U.S.C. § 434(g)(2).

6. For both 24 and 48-Hour Notices of Independent Expenditures, the date that a communication is publicly disseminated or distributed serves as the date a committee must use to determine if the total amount of independent expenditures, in the aggregate, has reached or exceeded the threshold for reporting. 11 C.F.R. §§ 104.4(f) and 104.5(g)(2).

7. From January 1, 2003 through the November 2, 2004 general election, the Committee made 1,545 independent expenditures totaling \$3,718,909. These included 71 independent expenditures totaling \$176,721 from January 1, 2003 to September 30, 2004, and 1,474 independent expenditures totaling \$3,542,188 from October 1, 2004 to November 2, 2004.

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8. The Committee itemized all independent expenditures and filed 24 and 48-Hour Notices based on the date of the check to the vendor, rather than based on the dissemination or distribution date. Moreover, for the majority of the expenditures, the Committee failed to maintain dissemination/distribution date documentation of the communications. In the instances where the dissemination/distribution date was ascertainable, the Committee failed to file or untimely filed the corresponding 24 and 48-Hour Notices.

9. The Committee failed to file or timely file 24 and 48-Hour Notices for 42 independent expenditures made during the period January 1, 2003 and September 30, 2004.

10. The Committee failed to file or timely file 24 and 48-Hour Notices for at least 88 independent expenditures made during the period from October 1, 2004 through the November 2, 2004 general election.

V. Respondents failed to file or timely file 24 and 48-Hour Notices of Independent Expenditures, in violation of 2 U.S.C. § 434(g).

VI. Respondents will take the following actions:

1. Respondents will pay a civil penalty to the Federal Election Commission in the amount of Ninety-Nine Thousand dollars (\$99,000), pursuant to 2 U.S.C. § 437g(a)(5)(A).

2. Respondents will cease and desist from violating 2 U.S.C. § 434(g).

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

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VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.


IX. Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

X. This Conciliation Agreement constitutes the entire agreement between Respondents and the Commission on the issues raised herein, and resolves all allegations that might have been raised based on the Commission's audit of the Committee for the 2001-02 and 2003-04 election cycles. No other oral or written statement, promise, agreement by either Respondents or the Commission, or their agents, which is not in this agreement shall be enforceable.

FOR THE COMMISSION:

Thomasenia P. Duncan  
General Counsel

BY:

  
Ann Marie Terzaken  
Associate General Counsel  
for Enforcement

1/26/10  
Date

FOR THE RESPONDENTS:

Bj A. Souton

12/29/09  
Date

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